

## CHAPTER 13

### SECTION 3

## RECONSIDERATION PROCEDURES

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### 1.0. REQUIREMENTS FOR REQUESTING A RECONSIDERATION

The request for a Reconsideration:

#### 1.1. Must Be In Writing

#### 1.2. Must Be Made By A Proper Appealing Party

A network provider is never a proper appealing party. Disputes between a network provider and the contractor concerning authorization of services are not subject to the appeal process. If the contractor or the NQMC receives a timely appeal request for reconsideration from a person who is not authorized to participate in the appeal, before the expiration of the appeal filing deadline, the contractor or the NQMC shall treat the request as routine correspondence, and add the request to the claim file. The contractor or the NQMC shall advise the proper appealing party in writing (see [Chapter 13, Addendum A, Figure 13-A-4](#)) with a copy to the improper appealing party. A blank "Appointment of Representative," form shall be enclosed with the letter to the proper appealing party (see [Figure 13-A-1](#)). The proper appealing party shall be told that an appeal must be filed within 20 calendar days of the date of the contractor's or the NQMC's letter or by the expiration of the appeal filing deadline, whichever is the later.

#### 1.3. Must Include An Appealable Issue

##### 1.3.1. Appealable Issues

1.3.1.1. A TRICARE Prime enrollee, a TRICARE Extra user or a TRICARE Standard beneficiary making use of the authorization process who requests authorization to receive services and such authorization is denied by the contractor, may appeal even though no care has been provided and no claim submitted. (Refer to [Chapter 13, Section 4, paragraph 3.3.4.3.](#) and [Chapter 13, Section 4, paragraph 3.1.2.](#), for additional information relating to preadmission/preprocedure denials).

1.3.1.2. The decision by the contractor to cost-share services under the Point-of-Service Option is not appealable; with the exception of the issue of whether services were related to an emergency and, therefore, exempt from the requirement for referral and authorization. Whether services were related to an emergency is a factual determination and is appealable. The TRICARE Prime enrollee must demonstrate that the care would qualify as an emergency under the criteria for emergency care set forth in [32 CFR 199.4](#). Should the beneficiary prevail in the appeal, the amount cost-shared would be the difference between the amount cost-shared under the Point of Service option and the amount that would have been cost-shared had the beneficiary received the care from a network provider. A determination by the

contractor that services received under the point-of-service option are not a TRICARE benefit would be appealable as a medical necessity or factual denial determination.

**1.3.1.3.** The decision by a contractor to deny a request by the Primary Care Manager (PCM) to refer a beneficiary to a specialist is an appealable issue, if the reason for the denial is a determination by the contractor that a referral is not needed.

**1.3.1.4.** Concurrent review authorizations granting 48 hours or less of additional services beyond the previous authorization when the provider has requested more than 48 hours of additional services. If the concurrent review authorization grants more than 48 hours of additional services beyond the previous authorization, but less than the period requested by the provider, an appeal does not exist. In such a case, the letter authorizing the additional period would inform the provider that a subsequent concurrent review will be conducted within 48 hours prior to the expiration of the newly authorized period (reference concurrent review requirements, [Chapter 7, Section 1, paragraph 3.4.1.](#) and [3.4.2.](#)).

### **1.3.2. Nonappealable Issues**

The following issues are not appealable and shall not be accepted for reconsideration. They should be counted as correspondence for both workload report and processing purposes.

#### **1.3.2.1. Allowable Charge**

The amount of the TRICARE-determined allowable cost or charge for services or supplies is not appealable, since the methodology for determining allowable costs or charges is established by regulation. In cases involving contractor cutbacks or downcoding of diagnoses or procedure codes, there is no issue with respect to the medical necessity of the services provided and therefore, no appealable issue (i.e., the contractor does not determine that the services are not a benefit under TRICARE). The sole issue in these cases is the level of payment for the medically necessary services - an allowable charge issue. If, however, the contractor cutback or downcoding results in the noncoverage of a furnished service, then an appealable issue would exist. See [Chapter 12, Section 9.](#)

#### **1.3.2.2. Eligibility**

Determination of a person's eligibility as a TRICARE beneficiary is not appealable since this determination is the responsibility of the Uniformed Services. See the [Policy Manual, Chapter 9.](#)

#### **1.3.2.3. Denial Of NAS Issuance**

Determinations relating to the issuance of a Nonavailability Statement (NAS) (DD Form 1251) based on the availability of care at the MTF are not appealable since these determinations are the responsibility of the Uniformed Services. The one exception is a dispute over the facts of the case which may demonstrate a medical emergency for which a Nonavailability Statement is not required. Denial of payment in this one situation is an appealable issue. See the [Policy Manual, Chapter 11, Section 2.1.](#) For nonenrollees, when the issuance of an NAS is denied because the care is found not to be medically necessary, and the

beneficiary is not satisfied with the decision, the beneficiary may appeal the decision under the appeals process set forth in this chapter.

#### **1.3.2.4. Provider Sanction**

If the decision is to disqualify or exclude a provider because of a determination against that provider resulting from abuse or fraudulent practices or procedures under another federal or federally-funded program is not appealable, the provider is limited to exhausting administrative appeal rights offered under the federal or federally-funded program that made the initial determination. However, a determination to sanction a provider because of abuse or fraudulent practices or procedures under TRICARE is an initial determination which is made by the contractor and is appealable under 32 CFR 199. See [Chapter 14](#).

#### **1.3.2.5. Network Provider/Contractor Disputes**

Disputes between a network provider and the contractor concerning payment for services provided by the network provider are not appealable.

#### **1.3.2.6. Provider Not Authorized**

The denial of services or supplies received from a provider not authorized to provide care under TRICARE is not appealable.

#### **1.3.2.7. Denial Of A Treatment Plan**

The denial of a treatment plan when an alternative treatment plan is selected is not appealable. Peer to peer dialogue resulting in selection and approval of another treatment option is not a denial of care.

#### **1.3.2.8. Denial Of Services By A Primary Care Manager**

The refusal of a PCM to provide services or to refer a beneficiary to a specialist is not an appealable issue. A beneficiary who has been refused services or a referral by a PCM may file a grievance under [Chapter 12, Section 10, paragraph 2.0](#). The decision by the contractor to deny a PCM's request to refer a beneficiary to a specialist is an appealable issue and is addressed in [paragraph 1.3.1.3](#).

#### **1.3.2.9. Designation Of Providers**

The contractor's designation of a particular network or non-network provider to perform requested services is not appealable.

### **1.4. Must Be Filed Timely**

An appeal must be filed before the expiration of the appeal filing deadline or within 20 days of the date of the contractor's letter, referenced in [paragraph 1.2](#). In calculating the number of days elapsed, the day following the date of the previous determination is counted as day "one" with the count progressing through actual calendar days including the date the

request is filed. The contractor or NQMC shall treat an untimely request for reconsideration as routine correspondence, and add the request to the claim file.

**1.4.1. By Mail**

If the appeal is not filed timely, the contractor shall advise the appealing party that the appeal cannot be accepted since the time limit for filing was exceeded, based on the receipt date of the appeal request or the postmark date on the envelope. For the purposes of TRICARE, a postmark is a cancellation mark issued by the United States Postal Service (i.e., private mail carriers do not issue postmarks). If there is no postmark or the date of the postmark is illegible, the date of receipt by the contractor shall be used to determine timeliness of filing.

**1.4.2. By Facsimile**

A request for reconsideration submitted by facsimile transmission (fax) is considered filed on the date the fax is received by the contractor.

**1.5. Must State The Issue In Dispute And Include Previous Determination**

The request should state the specific issue in dispute and be accompanied by a copy of the previous denial determination notice. If a contractor or the NQMC receives a request for reconsideration which otherwise satisfies the requirements as stated above, the request shall be accepted notwithstanding the failure of the appealing party to provide a copy of the previous denial determination notice or to state the specific issue in dispute. In such cases, the contractor or the NQMC shall accept the request for reconsideration and shall supply a copy of the previous denial determination notice from its files or shall initiate communication with the appealing party to clarify the specific issue in dispute, as appropriate.

**2.0. EXTENSION OF APPEAL FILING DEADLINE**

If the appeal is untimely the appealing party shall be told that if it can be shown to the satisfaction of the contractor or the NQMC, that timely filing of the request was not possible due to extraordinary circumstances over which the appealing party had no practical control, an extension of the appeal filing deadline may be granted. A determination by the contractor or the NQMC that extraordinary circumstances do not exist is not appealable.

**2.1. Extraordinary Circumstances Are Limited To:**

**2.1.1. Administrative Error**

**2.1.1.1.** Administrative error (misrepresentation, mistake or other accountable action) of an employee of the contractor performing functions under TRICARE and acting within the scope of that individual's authority. For example, an administrative error would occur when a request for reconsideration was filed with the contractor after the expiration of the appeal filing deadline but the envelope containing the reconsideration request was misplaced by the contractor. In such a case, the misplacement of the envelope by the contractor would constitute an extraordinary circumstance over which the appealing party had no practical control, thereby permitting late filing of the appeal, unless it could be determined that:

- The appealing party used a means other than the United States Postal Service to deliver the reconsideration request to the contractor, or
- The letter requesting the reconsideration was dated after the reconsideration filing deadline, or
- Other circumstances would lead to the conclusion that the reconsideration request could not have been postmarked on or before the reconsideration filing deadline (for example, the reconsideration request was received by the contractor 30 days after the reconsideration filing deadline).

#### **2.1.2. Mental Incompetency**

Mental incompetency of the appealing party (this includes the inability to communicate as a result of physical disabilities).

#### **2.2. Requests For Extension**

There must have been a denial of an appeal, due to lack of timely filing, before an extension can be considered. Contractors and the NQMC shall return all requests for extension of the appeals filing deadline to the requesting party if an appeal has not been denied due to lack of timely filing. The contractor and the NQMC shall inform the requesting party that the request for extension may not be considered until a request for reconsideration has been received.

### **3.0. RECEIPT AND CONTROL OF APPEALS**

#### **3.1. Date Stamp**

All reconsideration requests shall be stamped with the actual date of receipt within three workdays of receipt by the contractor.

#### **3.2. Control**

The contractor shall establish a single centralized appeals department and establish and maintain a single automated system for the control, location, and aging of appeals received. Appeals may be processed at more than one location but all appeals shall be managed and controlled by the centralized appeals department. The automated system shall ensure the contractor's ability to respond to inquiries on a timely basis and shall enable management to identify and respond to appeal delay problems. The contractor is responsible for ensuring issuance of complete and accurate determinations on all reconsiderations within the time frames set forth in the Operations Manual.

#### **3.3. Acknowledgment Of Receipt Of Request For Reconsideration**

The contractor shall provide an interim written response for all reconsiderations not processed to completion by the date required, advising the appealing party of the estimated date of issuance of the reconsideration determination. A preprinted postcard may be used if information covered by the Privacy Act is not disclosed.

### **3.4. Timeliness Standards**

[Chapter 13, Section 4, 5, and 6](#) include standards relating to timely issuance of reconsideration determinations and timely submission of appeal case files to the NQMC and to the Office of Appeals and Hearings. Standards are expressed in either calendar days or working days. To determine whether timeliness has been met relating to a standard expressed in working days, the first working day following receipt by the contractor or NQMC of the request for reconsideration, or request for the appeal file, is counted as day one of the timeliness requirement. To determine whether timeliness has been met relating to a standard expressed in calendar days, the first calendar day following receipt by the contractor or NQMC of the request for reconsideration is counted as day one of the timeliness requirement.

## **4.0. REVIEW PROCEDURES**

### **4.1. New Review Required**

The reconsideration shall be a thorough and independent new review, made by a different individual than the person who made the initial determination. Persons responsible for reconsiderations shall have the background, training and authority to review complex benefit issues requiring a high degree of critical judgment. When possible, an entirely different and appropriate section with different supervision, such as an appeal section, a utilization review section, a medical review section, or a quality assurance section should conduct the reconsideration. The name and title of the individual performing the reconsideration review shall be indicated in the Appeal Summary Log ([Figure 13-A-2](#)).

### **4.2. Development And Documentation**

#### **4.2.1. Additional Documentation**

The contractor and the NQMC shall request and make every reasonable effort to obtain any documentation required to arrive at a proper reconsideration determination. This includes follow-up letters or documented telephone calls if requested information is not received. An appeal involving inpatient admission or length of stay may require obtaining the entire hospital record. Whenever records are required, the contractor or the NQMC shall request such records directly from the provider. Written or verbal statements made by beneficiaries regarding their medical conditions are not a substitute for medical records. If there are no extenuating circumstances alleged and no added information furnished or referenced, the contractor or the NQMC may make the determination on the information available in its records. Improperly developed or incomplete appeal files received by TMA may be returned to the contractor or the NQMC for additional development, completion, and, if appropriate, issuance of a revised reconsideration determination. Due to the time constraints involved in expedited preadmission/preprocedure appeals, fully documenting a case file may not be possible. Requirements for documenting case files for expedited preadmission/preprocedure appeals is addressed in [Chapter 13, Section 4](#).

#### **4.2.2. Medical Review**

Utilization review staff qualifications are addressed in [Chapter 7, Section 1, paragraph 1.4](#). The review shall be dated and include the signature and legibly printed name

of the reviewer, and clinical specialty, (e.g., DO, MD). If the appeal file is forwarded to TMA, a completed “Professional Qualifications” form (see [Figure 13-A-3](#)) for each second level medical reviewer shall be included in the appeal file.

#### **4.3. File Documentation (In Other Than Provider Termination Cases)**

The contractor and the NQMC shall carefully review the initial determination and all pertinent evidence and documentation obtained at reconsideration in light of the applicable provisions of 32 CFR 199, this manual, the Policy Manual, and all other relevant guidelines and instructions issued by TMA. The reconsideration determination shall be based on the facts of the case as shown in the evidence and shall be supported by appropriate citations from 32 CFR 199, which shall be cited in the reconsideration determination.

##### **4.3.1. File Content**

The contractor and the NQMC shall document all determinations made at the reconsideration level in sufficient detail so that, if the next level of appeal is pursued, a subsequent reviewer shall be provided with a clear and complete picture of all actions taken on the case to that point. All material related to the reconsideration shall be made part of the permanent claim file. The copy of the appeal file provided by the contractor to the NQMC or TMA must be complete, including the Appeal Summary Log ([Figure 13-A-2](#)) and the Professional Qualifications form ([Figure 13-A-3](#)). Likewise, the copy of the appeal file provided by the NQMC to TMA must be complete and include the file received by the NQMC from the contractor. In addition, the NQMC must complete and include its portion of the Appeal Summary Log.

##### **4.3.2. File Requirements and Structure**

**4.3.2.1.** The contractor and the NQMC shall retain and completely document the file or files for all claims involved in the appeal. The contractor may establish a separate appeal file or may attach all papers related to the appeal, including the completed Appeal Summary Log and Professional Qualifications form to the claim file. Irrespective of the method, the contractor and the NQMC shall be responsible for furnishing the required appeal file to the entity performing the next level of appeal within required time periods, if an appeal request is filed. The contractor is not required to submit to the NQMC, the professional qualifications of the medical reviewers referenced in [paragraph 4.3.2.2](#).

**4.3.2.2.** Contractors and the NQMC shall organize the appeal file so that the claim(s) and associated EOBs shall be the last section in the file and all additional documentation shall be arranged in front of it, in order of receipt. Attachments should not be separated from the transmitting document. Examples of documents that are part of the appeal file are:

- Claim(s) with attachments, including, when appropriate, all related claims
- Explanation of Benefits (EOB) forms
- Nonavailability Statement(s)
- Request for Preadmission/Preprocedure Authorization(s)

- Preadmission/Preprocedure Authorization(s)
- Request for medical and/or other documentation received or obtained by the contractor prior to making the initial determination,
- Medical and/or other documentation received or obtained by the contractor prior to making the initial determination,
- Initial determination
- Written request(s) for reconsideration, including the envelope in which it was mailed
- Request for additional evidence submitted by the appealing party
- Additional evidence submitted by the appealing party
- Written and signed opinion of the contractor medical reviewer(s)
- Reconsideration determination(s)
- Professional qualifications of the medical reviewer(s) (see [Figure 13-A-3](#)).
- Appeal Summary Log (see [Figure 13-A-2](#)).

#### **4.4. File Documentation For A Termination Case**

For file documentation requirements in provider termination cases, see [Chapter 14, Section 6, paragraph 4.4](#).

#### **5.0. APPEAL SUMMARY LOG**

The contractor and the NQMC (when appropriate) shall complete the Appeal Summary Log ([Figure 13-A-2](#)).

#### **6.0. NOTICE TO APPEALING PARTY OF RESULTS OF RECONSIDERATION**

The contractor and the NQMC shall inform the appealing party (or the representative if a representative has been appointed) of the reconsideration determination in writing in accordance with the timeliness standards set forth in Chapter 13, Sections [4](#) and [5](#). The reconsideration determination shall be typewritten in its entirety. Handwritten notices shall not be sent. All claims that relate to the same incident of care or the same type of service to the beneficiary shall be addressed in a single reconsideration determination. If the appealing party is a non-network participating provider, a copy of the reconsideration determination shall be furnished to the beneficiary. Conversely, the non-network participating providers shall be furnished copies of the determination if the beneficiary filed the appeal. The notice shall include a caption identifying the beneficiary (including whether the beneficiary is Standard and Extra user, or a Prime enrollee), the sponsor, the sponsor's social security number, the type of care (e.g., RTC care, outpatient psychotherapy, substance

abuse, medical/surgical care, dental, etc.), the dates of service, and the providers (identifying each provider as network or non-network). The notice shall include the following headings:

#### **6.1. Statement Of Issues**

The contractor and the NQMC shall summarize the issue or issues under appeal and shall be clear and concise. All issues shall be addressed; for example, a reconsideration determination in all cases requiring preadmission authorization shall address the requirement for preadmission authorization of the care as well as whether the requirement was met.

#### **6.2. Applicable Authority**

The contractor and the NQMC shall briefly discuss the provision of law, regulation, TRICARE policy or TRICARE guidelines on which the determination was made. Include pertinent specific citations.

#### **6.3. Discussion**

The contractor and the NQMC shall discuss the original and any added information relevant to the issue(s) under appeal, clearly and concisely. Usually one or two paragraphs will suffice unless the issues are complex. The contractor and the NQMC shall include a discussion of any secondary issues raised by the appealing party or which may have been discovered during the reconsideration process.

#### **6.4. Decision**

The contractor and the NQMC shall state the decision and whether the reconsideration upholds or reverses the original decision in whole or in part, and clearly and concisely state the rationale for the decision; i.e., fully state the reasons that were the basis for the approval or denial of TRICARE benefits. One or two paragraphs will usually suffice. The contractor and the NQMC shall state the amount in dispute remaining as a result of the decision and how the amount in dispute was determined (calculated). Also state whether payments are to be recouped.

#### **6.5. Waiver Of Liability**

Waiver of Liability provisions are only applicable to denials as described in [Chapter 13, Section 4](#). For applicable cases, the contractor and the NQMC shall include a statement explaining waiver of liability determination, including the rationale for the decision. A beneficiary found not to be liable for the entire episode of care will not be offered further appeal rights. Refer to the [Policy Manual, Chapter 13, Section 16.1](#) for information relating to waiver of liability.

#### **6.6. Appeal Rights**

The contractor and the NQMC shall state whether further appeal rights are available if the determination is less than fully favorable.

#### **6.6.1. Medical Necessity Contractor Reconsideration Determinations**

If the contractor reconsideration determination is less than fully favorable, the contractor shall include a statement explaining the right of the beneficiary (or representative) and the non-network participating provider to request an appeal to the NQMC for a second reconsideration. Timeframes to file an appeal of the contractor reconsideration determination are as follows:

##### **6.6.1.1. Expedited Preadmission/Preprocedure Reconsiderations**

The beneficiary shall file the appeal request with the NQMC within three calendar days after the date of receipt of the initial reconsideration determination. The date of receipt of the appeal request by the NQMC shall be considered to be five calendar days after the date of mailing, unless the receipt date is documented. A request for reconsideration filed with the NQMC by the beneficiary more than three calendar days after the date of receipt but within 90 calendar days from the date of the initial reconsideration determination will be addressed as a nonexpedited reconsideration.

##### **6.6.1.2. Nonexpedited Reconsiderations**

The beneficiary or non-network participating provider shall file the appeal request with the NQMC within 90 calendar days after the date of the initial reconsideration determination.

NOTE: Refer to [Chapter 13, Section 4, paragraph 2.6.2.](#) for the appeal process in concurrent review cases.

#### **6.6.2. Factual Reconsideration Determination**

If the reconsideration is less than fully favorable and \$50 or more remains in dispute, the contractor shall include a statement explaining the rights of the beneficiary (or representative) and the provider to request a formal review with TMA. A request for formal review must be postmarked or received by TMA within 60 calendar days from the date of the notice of the reconsideration determination issued by the contractor.

#### **6.6.3. Reconsideration Determinations Issued By The NQMC**

If the reconsideration determination issued by the NQMC is less than fully favorable and \$300 or more remains in dispute, the contractor shall include a statement explaining the right of the beneficiary (or representative) and the non-network participating provider to file a request for hearing with TMA. A request for hearing must be postmarked or received by TMA within 60 calendar days from the date of the notice on the reconsideration determination issued by the NQMC. Refer to [Chapter 13, Section 4, paragraph 3.3.4.3.](#) regarding hearings in preadmission/preprocedure cases in which the requested service(s) have not commenced.

#### **6.6.4. When the Amount Required to File an Appeal Remains in Dispute**

The following wording is suggested if the amount required to file an appeal remains in dispute (See [Chapter 13, Section 2, paragraph 4.0.](#) for required amount in dispute):

**6.6.4.1. Nonexpedited Reconsideration Determination**

“An appropriate appealing party (i.e., (1) the TRICARE beneficiary, (2) the non-network participating provider of care or (3) a provider of care who has been denied approval under TRICARE), or the appointed representative of an appropriate appealing party, has the right to request a (insert level of appeal). The request must be in writing, be signed, and postmarked or received by **(insert the NQMC name and address and fax number or the Office of Appeals and Hearings, TMA, 16401 East Centretech Parkway, Aurora, Colorado 80011-9043)**, within **(insert number)** days from the date of this decision and must include a copy of this reconsideration determination. For the purposes of TRICARE, a postmark is a cancellation mark issued by the United States Postal Service.

Additional documentation in support of the appeal may be submitted. However, because a request for **(insert level of appeal)** must be postmarked or received within **(insert number)** days from the date of the reconsideration determination, a request for **(insert level of appeal)** should not be delayed pending the acquisition of any additional documentation. If additional documentation is to be submitted at a later date, the letter requesting the **(insert level of appeal)** must include a statement that additional documentation will be submitted and the expected date of submission.

Upon receiving your request, all TRICARE claims related to the entire course of treatment will be reviewed.”

**6.6.4.2. Expedited Preadmission/Preprocedure Reconsideration Determination (include in addition to the suggested wording above)**

“The TRICARE beneficiary, or the appointed representative of the beneficiary, has the alternative of requesting an expedited reconsideration. The request must be in writing, be signed and must be received by **(insert the NQMC name and address and fax number)** within three working days after the receipt of this denial determination, and must include a copy of this denial determination. A request for an expedited reconsideration filed after the three day appeal filing deadline will be accepted as a nonexpedited request for reconsideration. It is recommended that any additional documentation you may wish to submit be submitted with the request for expedited reconsideration. Upon receiving your request, all TRICARE claims related to the entire course of treatment will be reviewed.”

**6.6.5. Amount In Dispute Less Than The Amount Required To File An Appeal**

For those cases in which the amount in dispute is less than the amount required to file an appeal (refer to [Chapter 13, Section 2, paragraph 4.0.](#) for Required Amount in Dispute), the contractor or the NQMC shall notify the appealing party or representative that

the reconsideration determination is final and no further administrative appeal is available. The following is suggested wording:

“Because the amount in dispute is less than **(insert required amount in dispute)**, this reconsideration determination is final and there are no further appeal rights available.”

## 7.0. EFFECT OF THE RECONSIDERATION DETERMINATION

The reconsideration determination is final if:

- The amount is less than the amount required to file an appeal, or
- Appeal rights were offered in the notice of the decision at the reconsideration level, but a request for a second reconsideration, formal review, or hearing was not postmarked or received by the appeal filing deadline.

NOTE: For additional information regarding the effect of reconsideration determinations issued by the NQMC, refer to [Chapter 13, Section 4, paragraph 3.3](#).

## 8.0. CASES RETURNED WITHOUT TMA REVIEW

At the discretion of TMA, certain cases appealed may be returned to the contractor for processing without the issuance of a formal review or hearing decision. These cases will normally involve instances in which a processing error has resulted in a denial or partial denial of a claim; instances in which the contractor has failed to obtain additional documentation as required by [paragraph 4.2.1](#); instances in which the contractor has failed to address the entire episode of care; instances in which the contractor has erroneously identified a medical necessity issue as a factual issue and visa-versa; instances in which the contractor has failed to complete the Appeal Summary Log; and instances in which the contractor has failed to offer appropriate appeal rights. Also, TMA, in doing normal development associated with the appeal process, may obtain information that resolves the issues without further review by TMA. If the case is returned for reprocessing, for record purposes the case will be treated as a new request for reconsideration (i.e., [Chapter 1, Section 3, paragraph 6.0](#)), will apply and the returned case will be reported for workload purposes). Development for additional documentation, if necessary, will be performed as it would in any reconsideration case. The contractor shall issue a revised reconsideration determination based on the merits of the claim. If applicable, additional appeal rights shall be offered by the contractor.

## 9.0. RECORD OF RECONSIDERATION

The contractor shall ensure maintenance of records incorporating the following requirements:

9.1. The contractor shall maintain the record of its reconsideration determinations in accordance with the requirements of [Chapter 2, Section 2, paragraph 1.20](#).

**9.2. The record of the reconsideration shall include:**

- The initial determination.
- The basis for the initial determination.
- Documentation of the date of receipt of the request for reconsideration.
- The detailed basis for the reconsideration determination.
- Evidence submitted by the parties.
- Legible copies of medical (Peer) reviews with accompanying “professional qualifications” forms.
- A copy of the notice of the reconsideration determination that was provided to the parties.
- Documentation of the delivery or mailing and, if appropriate, the receipt of the notice of the reconsideration determination by the parties.
- Claims and Explanations of Benefits (EOB) forms.

**10.0. CONTRACTOR PARTICIPATION IN THE FORMAL REVIEW AND HEARING**

**10.1.** Contractor participation in the formal review and hearing is limited to submission of written documentation to TMA to be considered in the adjudication of the appeal. TMA will notify the contractor, by requesting the contractor’s appeal file, when a request for formal review or hearing is received. The contractor shall advise TMA within ten calendar days of receiving notification that a formal review or hearing request has been received, that it intends to participate in the formal review or hearing through submission of additional documentation. The additional documentation shall be received by TMA within 20 calendar days following the notice to the contractor of the receipt of the formal review or hearing request.

**10.2.** The contractor may appear at the hearing as a witness and offer testimony in such capacity. TMA will notify the contractor when a request for hearing is received by requesting the contractor’s appeal file. The contractor shall advise TMA, within ten calendar days of receiving notification that a hearing request has been received, that it intends to appear at the hearing as a witness. If the contractor has advised TMA that it intends to appear at the hearing as a witness, TMA will advise the contractor of the time and place of the hearing.

**10.3.** If, after receiving notice from TMA that a formal review or hearing request has been submitted, the contractor and the NQMC receive additional claims or documentation related to the formal review or hearing, the contractor and the NQMC shall notify TMA of the receipt of the additional claims or documentation and submit copies of the claims or documentation to TMA.

